

Ronald E. Rogers appeals from the revocation of his placement in community corrections contending that: (1) his original sentence was inappropriate; and (2) the trial court abused its discretion when it revoked his placement in community corrections and committed him to the Department of Correction for the remainder of his sentence. We affirm.

In September 2005, following Rogers’s guilty plea to operating a motor vehicle after lifetime forfeiture of driving privileges,¹ a Class C felony, the trial court sentenced Rogers to six years—two years executed in community corrections² and the remaining four years suspended to probation. By participating in community corrections, Rogers agreed to abide by: the conditions of his probation; municipal and county ordinances; state statutes; and federal laws. *Appellant’s App.* at 30. The terms of Rogers’s probation included, “Violation of any law may be considered a violation of probation. Failure to comply with the *Terms of Probation* may result in the revocation of probation and imposition of part or all of the suspended sentence.” *Id.* at 22.

In April 2007, Rogers was booked into the St. Joseph County Jail for possession of marijuana. Thereafter, the State filed a petition to revoke Rogers’s placement in community corrections on the basis that he was charged with a new criminal offense. *Id.* at 23. During the revocation proceeding, Rogers admitted that he possessed marijuana, but contended that he merely found it on the ground. *Tr.* at 53. The trial court determined that Rogers had

¹ See IC 9-30-10-17.

² The trial court ordered, “The two year executed sentence shall be a direct commitment to DuComb Center at their level of supervision.” *Appellant’s App.* at 21. The DuComb Center determined that Rogers should serve his time in a “Day Reporting” program. *State’s Ex.* 1.

violated the conditions of his placement and resentenced him to the Department of Correction for the remainder of his sentence. Rogers now appeals.

Rogers first challenges the appropriateness of his original sentence. Specifically, he contends that the trial court failed to make an adequate statement of the reasons for the imposition of his original six-year sentence. “For purposes of appellate review, we treat a hearing on a petition to revoke a placement in a community corrections program the same as we do a hearing on a petition to revoke probation.” *Cox v. State*, 706 N.E.2d 547, 549 (Ind. 1999). As such, a defendant may not collaterally challenge his sentence on an appeal from revocation of his placement. *See Cox v. State*, 850 N.E.2d 485, 490 n.1 (Ind. Ct. App. 2006) (citing *Schlichter v. State*, 779 N.E.2d 1155, 1156-57 (Ind. 2002)) (defendant may not collaterally attack sentence on appeal from probation revocation). This issue is therefore unavailable to Rogers in this appeal.

Rogers next contends that the trial court abused its discretion when it revoked his placement in community corrections and sentenced him to the Department of Correction for the balance of his six-year sentence. Our review of revocation hearings for community corrections is similar to that for probation revocation hearings. A defendant “is not entitled to serve his sentence in a community corrections program but, as with probation, placement in the program is a ‘matter of grace’ and a ‘conditional liberty that is a favor, not a right.’” *Million v. State*, 646 N.E.2d 998, 1001-02 (Ind. Ct. App. 1995). A community corrections revocation hearing is civil in nature and the State must prove the alleged violation by a

preponderance of the evidence. *Decker v. State*, 704 N.E.2d 1101, 1104 (Ind. Ct. App. 1999).

If an offender violates the terms of his placement, the court, after a hearing, may change the terms of the placement, continue the placement, or “[r]evoke the placement and commit the person to the [D]epartment of [C]orrection for the remainder of the person’s sentence.” IC 35-38-2.6-5. The “commission of a crime while serving time in the community corrections program is always grounds for revocation.” *Decker*, 704 N.E.2d at 1103.

Here, Rogers admitted during the revocation proceedings that he was found in possession of a substance that he knew to be marijuana. *Tr.* at 85. The State showed by a preponderance of the evidence that Rogers committed a crime while placed in community corrections. The trial court did not abuse its discretion in revoking his placement and ordering Rogers to serve the balance of his six-year sentence.

Affirmed.

RILEY, J., and MAY, J., concur.